

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**TED KAMEL,**

**Plaintiff/Counter-Defendant**

**vs.**

**AVENU INSIGHTS & ANALYTICS,  
LLC,**

**Defendant/Counter-Plaintiff.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**NO. 6:18-CV-00422-JDK-KNM**

**DEFENDANT/COUNTER-PLAINTIFF AVENU INSIGHTS & ANALYTICS, LLC’S  
REPLY TO PLAINTIFF TED KAMEL’S RESPONSE  
TO DEFENDANT’S MOTION TO COMPEL**

Defendant/Counter-Plaintiff Avenu Insights & Analytics, LLC (“Avenu”) files the following Reply to Plaintiff Ted Kamel’s Response to Defendant’s Motion to Compel and would state as follows:

**I. INTRODUCTION**

The undisputed facts at issue show Plaintiff’s pattern of non-compliance with the Docket Control Order and/or regular discovery practices. Contrary to Plaintiff’s argument, Avenu has sought very specific items in its Motion to Compel. Specifically, Avenu seeks the following documents:

- All communications including, but not limited to text messages and emails, sent by and between Kamel and Richard Fletcher, Vice President, Sales Tax Assurance (“STA”), a direct competitor of Avenu and any other representatives at Sales Tax Assurance including, but not limited to, Andy Nickerson.
- All communications including, but not limited to text messages and emails, sent by and between Kamel and Jason Perry, President, Azavar, a direct competitor of Avenu.

Avenu made the request for this electronically stored information in Request for

Production Nos. 5 and 6 of Avenu's Second Request for Production.<sup>1</sup> In response, Plaintiff agreed to produce certain emails exchanged by and between Kamel and Fletcher but has failed to produce any additional electronic communications with Andy Nickerson. Plaintiff also failed to produce any text messages exchanged by and between Plaintiff and Fletcher in response to the Second Request for Production, even lying about their existence during a deposition. [Dep. of Kamel, 251: 19-22]. Avenu eventually retrieved these text messages but only after serving third-party discovery on STA. Regarding electronic communications with Perry, Plaintiff has stated "Plaintiff will not be producing any documents responsive to this request." [Resp. to Rog., p. 5].

Avenu also seeks access to Kamel's personal computer that currently contains information related to a list that contains Avenu's confidential information for purposes of conducting a forensic examination. Interest in this forensic examination began following testimony by Kamel that his intern, Michael Cordaro, had twice created a list containing confidential contact information for Avenu clients ("Avenu Confidential Client List") before creating a second new list with incredibly similar information two months later on Kamel's personal computer. [Dep. of Kamel, pp. 199-201:8-12]. This interest became all the more piqued after discovering that Cordaro reviewed the same list on Kamel's personal computer in anticipation of his deposition in this action [Dep of Cordaro, p. 29: 9-15] using cities identified on the Avenu's confidential Salesforce database and some Google searches that are undoubtedly contained as part of the metadata on the identified computer. [*Id.*, p. 75:10-76:13]. Cordaro further admitted, however, during his deposition that he did not remember creating a second version of the list. [*Id.* at p. 28: 9-17].

Believing a forensic examination of Kamel's computer to be the only way to verify one

---

<sup>1</sup> A true and correct copy of these Requests for Production, Deposition Transcript Excerpts, communications by and between counsel and other documents have been attached as exhibits to the unsworn declaration of Mark A. Flores which is attached to this Reply as Exhibit A.

of the key claims and/or defenses in this action regarding the alleged creation of two lists containing Avenu's confidential information, counsel for Avenu requested the opportunity to make a forensic image of Kamel's cell phone and "the computer on which Mr. Cordero twice created the lists of contacts that was sent to and from [Kamel's] personal email address and his Avenu email account and to and from his personal email address and his ATA email account" on October 31, 2019. Counsel for Avenu followed up again on November 5, 2019, November 7, 2019, and November 11, 2019 seeking a response to Avenu's request to conduct a forensic examination of the personal computer in question as well as the cell phone, to the extent it still existed. Avenu, therefore, has chosen to raise this issue with the Court as contemplated in this Court's Discovery Order of February 27, 2019 [DE No. 26] via this Motion to Compel.

## **II. ARGUMENTS**

### **A. Avenu is not seeking to conduct a fishing expedition.**

Avenu stands ready to engage Plaintiff regarding the parameters that the parties would engage in a forensic examination of Kamel's personal computer as well as other mechanisms by which the parties could engage in this important discovery while protecting Kamel's privacy. That said, Kamel's testimony regarding the two time creation of the list in question on his computer and Cordaro's contradictory testimony has opened the door to an examination of this computer for not only the list but other materials that might contain the confidential information, like the listing of clients obtained from Salesforce, and web search histories. .

The case cited by Kamel expressly recognized "courts have permitted restrained and orderly computer forensic examinations where the moving party has demonstrated that its opponent has defaulted in its discovery obligations by unwillingness or failure to produce relevant information by more conventional means." *Areizaga v. ADW Corp.*, 3:14-CV-2899-B, 2016 WL 9526396, at \*3 (N.D. Tex. Aug. 1, 2016) (citation omitted). In this instance, there

have been multiple instances of failures to produce information related to the claims or defenses in this action and contradictory testimony that support the need for this forensic examination.

Most notably, Plaintiff testified that he did not remember “ever texting Richard [Fletcher]” despite the fact that more than thirty-five (35) pages of text messages were produced by Fletcher in response to third-party discovery initiated only after Avenu was forced to take his deposition to determine the scope of Plaintiff and Fletcher’s relationship. Counsel for Plaintiff has stated there are no back-ups of the information on his cell phone located in the cloud or any other computer. More recently, in an attempt to find the last known contact information for Tony Campisi, Kamel’s former co-worker at his new position and a potential witness believed to have relevant information, counsel for Plaintiff has simply stated his client has no idea how to contact him despite Avenu’s request that he check his cell phone records for possible numbers.

Plaintiff’s attempt to confuse this issue by bringing up a Dropbox account that Avenu had no role in creating is both misleading and irrelevant. First and foremost, Avenu has no knowledge of the password or the origin of this account in the same way it does not know how to access the Live Nation Account that sent email messages to Plaintiff’s MuniServices email account. [AVENU (KAMEL) 000589-90]. Secondly, Plaintiff has not brought a motion on this issue. This Court should grant Avenu’s Motion to Compel.

**B. This Court should consider sanctions against Plaintiff.**

This Court should also refuse to entertain Plaintiff’s attempt to parse language in order to avoid sanctions for his misconduct. The deposition testimony in full stated:

Q. Do you recall **ever** texting Richard [Fletcher]?

A. No.

Q. Did he ever text you?

A. I don’t remember.

[Dep. of Kamel, pp. 251: 19-22] (*emphasis added*). It seems highly incredible to believe that

Plaintiff would not recall “ever texting” Fletcher given the multiple referrals, pricing information, and recruitment information exchanged with Fletcher via text message. It similarly seems incredible to believe that he would not remember Fletcher texting him regarding the same.

Plaintiff correctly states that there is nothing in the record supporting Avenu’s belief regarding Kamel’s texting activities other than the messages rightfully produced by a third-party following discovery deemed necessary in the face of otherwise incredible statements by Plaintiff. While Avenu has not presented evidence that Plaintiff texted clients, it has certainly provided evidence that Plaintiff engaged in significant texting activity regarding business as seen in the thirty-five (35) pages of text messages turned over in third-party discovery, required following Plaintiff’s refusal to testify truthfully regarding his communications with Fletcher. This Court should issue sanctions against Plaintiff for this misconduct. Moreover, this Court should refuse to issue sanctions against Avenu as it did not file this motion without substantial justification as seen in the above-stated facts.

### III. CONCLUSION

For the above-stated reasons, this Court should grant Avenu’s Motion to Compel and order production of the requested materials and a forensic examination of Plaintiff’s computer.

Respectfully submitted,

/s/ Michael P. Royal

Michael P. Royal

Texas State Bar No. 00784886

[mroyal@littler.com](mailto:mroyal@littler.com)

Mark Flores

Texas State Bar No. 24076385

[markflores@littler.com](mailto:markflores@littler.com)

LITTLER MENDELSON, P.C.

2001 Ross Avenue

Suite 1500, Lock Box 116

Dallas, TX 75201.2931

ATTORNEYS FOR AVENU INSIGHTS &  
ANALYTICS, LLC

**CERTIFICATE OF SERVICE**

The undersigned counsel certifies that on this, the 13th day of December, 2019, I served the foregoing via the cm/ecf system resulting in electronic service on the following counsel of record:

Joseph Pevsner  
Joseph.Pevsner@tklaw.com  
Austin Smith  
Austin.Smith@tklaw.com

/s/ Michael P. Royal  
Counsel for Avenu Insights &  
Analytics, LLC

4831-1447-9278.1 099095.1001

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

**TED KAMEL**

**Plaintiff/Counter-  
Defendant,**

**V.**

**AVENU INSIGHTS & ANALYTICS,  
LLC,**

**Defendant/Counter-Plaintiff.**

[illegible]

**NO. 6:18-cv-00422-RWS-KNM**

**UNSWORN DECLARATION OF MARK A. FLORES**

Pursuant to 28 U.S.C. § 1746, I declare in this Unsworn Declaration of Mark A. Flores (“Declaration”) the following to be true and correct under penalty of perjury:

1. I am an adult over the age of 18 years old, and I have personal knowledge of the information contained in this Declaration. I am signing this Declaration freely, without any threat of punishment or promise of reward.

2. I have personal knowledge of all facts stated herein and am competent to testify as to all facts stated herein as being true and correct.

3. I am an attorney at the law firm of Littler Mendelson, P.C. I represent Defendant/Counter-Plaintiff Avenu Insights & Analytics, LLC in the above-styled action. I am familiar with the discovery proceedings in this action.

4. Attached hereto as Exhibit 1 to this Declaration is Kamel's Response to Second Request for Production.




5. Attached hereto as Exhibit 2 to this Declaration are true and correct copies of excerpts of the transcript of the deposition of Ted Kamel, Plaintiff/Counter-Defendant in this action.

6. Attached hereto as Exhibit 3 to this Declaration are true and correct copies of excerpts of the transcript of the deposition of Michael Cordaro.

8. Attached hereto as Exhibit 5 to this Declaration are true and correct copies of documents produced in response to written discovery and general discovery obligations by Avenu, Defendant/Counter-Plaintiff in this action.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 13, 2019



Mark A. Flores

4849-6108-2285.1 099095.1001

# EXHIBIT A-1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

TED KAMEL,  
  
Plaintiff,

v.

AVENU INSIGHTS & ANALYTICS, LLC,  
  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§

NO. 6:18-cv-00422-JDK-KNM

**PLAINTIFF TED KAMEL’S OBJECTIONS AND RESPONSES  
TO DEFENDANT’S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: Defendant Avenu Insights & Analytics, LLC, by and through its attorneys of record,  
Michael Royal and Mark Flores, Littler Mendelson, P.C., 2001 Ross Avenue, Suite 1500,  
Dallas, Texas 75201

Plaintiff Ted Kamel (“Plaintiff” or “Kamel”) serves the following objections and responses  
to Defendant’s Second Set of Requests for Production. Please see documents produced as  
KAMEL000097-001132.

Respectfully submitted,

By: /s/ Austin Smith  
Joseph Pevsner  
State Bar No. 15874500  
[Joseph.Pevsner@tklaw.com](mailto:Joseph.Pevsner@tklaw.com)

Austin Smith  
State Bar No. 24102506  
[Austin.Smith@tklaw.com](mailto:Austin.Smith@tklaw.com)  
THOMPSON & KNIGHT, LLP  
One Arts Plaza  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201  
Tel. (214) 969-1700  
Fax (214) 969-1751

**ATTORNEYS FOR PLAINTIFF TED KAMEL**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that they caused a true and correct copy of the foregoing to be served on the following counsel of record via email on October 9, 2019:

Michael P. Royal  
Mark Flores  
Littler Mendelson, P.C.  
2001 Ross Avenue  
Suite 1500, LB 116  
Dallas, Texas 75201-2931

/s/ Austin Smith

Austin Smith

### **PRELIMINARY STATEMENTS AND OBJECTIONS**

1. Plaintiff objects to Defendant's definitions, instructions, and requests to the extent they purport to impose obligations on Plaintiff in excess of its discovery obligations under the Federal Rules of Civil Procedure. Plaintiff will respond to each request in accordance with the applicable rules, using the common meaning and normal usage of words and phrases.
2. Plaintiff objects to Defendant's definitions, instructions, and requests to the extent they seek to require Plaintiff to produce documents not within its possession, custody, or control.
3. Plaintiff objects to these requests to the extent they seek documents that are available from public sources or third parties or are otherwise equally available to Defendant.
4. For some of these requests, Plaintiff will agree to produce relevant, responsive, non-privileged documents located after a reasonably diligent search. Such an answer is not a representation that any such documents exist, only that Plaintiff agrees that if after a reasonably diligent search any such documents are located, Plaintiff will produce them.
5. Plaintiff does not concede that any of its responses are or will be admissible evidence during litigation of this matter, and Plaintiff does not waive any objection, whether or not asserted herein, to the use of any such response at trial.

## **REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control, which were sent from your email address (tedkamel@msn.com) to the email address assigned to you by Avenu and/or MuniServices from March 29, 2017 to the present.

### **RESPONSE:**

Plaintiff objects to this request as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects because this request is overbroad and unduly burdensome because it is unlimited as to scope and seeks documents that are in the possession of Defendant.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will produce any responsive documents and directs Defendant to documents previously produced.

**REQUEST FOR PRODUCTION NO. 2:** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control, which were sent from an email address assigned to you by Avenu and/or MuniServices to your email address tedkamel@msn.com or any other email addresses controlled or utilized by you. This includes, but is not limited to, Word documents, PowerPoint presentations, pdf copies of documents and other materials.

### **RESPONSE:**

Plaintiff objects to this request as overly broad and as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will produce any responsive documents and directs Defendant to documents previously produced.

**REQUEST FOR PRODUCTION NO. 3:** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control, which relate to any and all prospect lists created while working with Avenu prior to the termination of your employment with Avenu on March 29, 2018 to which you have access as of this date. This includes all prospect lists available for access on the computing devices identified in your response to Interrogatory No. 8 of Avenu's First Set of Interrogatories and/or available through archived emails at your tedkamel@msn.com account.

### **RESPONSE:**

Plaintiff objects to this request as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects because this request is overbroad and unduly burdensome because it is unlimited as to scope and seeks documents that are in the possession of Defendant.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will produce any responsive documents and directs Defendant to documents previously produced.

**REQUEST FOR PRODUCTION NO. 4:** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control that relate to your recruitment and/or eventual employment by STA and/or Azavar Audit Solutions, as identified in Kamel000042.

**RESPONSE:**

Plaintiff objects to this request as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects because this request is vague and ambiguous because it is unclear what is being identified in Kamel000042. Plaintiff further objects to this request on the ground that the request is invasive of his privacy rights and is an impermissible fishing expedition.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will produce any discoverable documents and directs Defendant to documents previously produced.

**REQUEST FOR PRODUCTION NO. 5:** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control that relate to any communications by and between you and STA and/or you and Azavar Audit Solutions, as identified in Kamel000042.

**RESPONSE:**

Plaintiff objects to this request as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects because this request is vague and ambiguous because it is unclear what is being identified in Kamel000042. Plaintiff further objects to this request on the ground that the request is invasive of his privacy rights and is an impermissible fishing expedition.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will produce any discoverable documents and directs Defendant to documents previously produced.

**REQUEST FOR PRODUCTION NO. 6** Produce any and all documents, electronically stored information, and tangible things that you have in your possession, custody, or control that relate to any communications by and between you and Jason Perry, President of Azavar Audit Solutions, as identified in KAMEL000044.

**RESPONSE:**

Plaintiff objects to this request as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects because this request is vague and ambiguous because it is unclear what is being identified in Kamel000044. Plaintiff further objects to this request on the ground that the request is invasive of his privacy rights and is an impermissible fishing expedition.

Subject to and without waiving these objections or assertion of privilege, Plaintiff will not be producing any documents responsive to this request. Plaintiff will supplement his response as required by the Federal Rules.



# EXHIBIT A-2

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

TED KAMEL, )  
)  
Plaintiff, )  
) CIVIL ACTION NO.  
vs. )  
) 18-CV-00422-JDK-KNM  
AVENU INSIGHTS & ANALYTICS, LLC, )  
)  
Defendant. )

---

ORAL DEPOSITION OF

TED KAMEL

OCTOBER 15, 2019

---

CONTAINS CONFIDENTIAL TESTIMONY

ORAL DEPOSITION of TED KAMEL, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 15th of October, 2019, from 9:44 a.m. to 6:22 p.m., before Karen L. Shelton, RDR/CRR/CSR in and for the State of Texas, reported by machine shorthand at the offices of Thompson & Knight, LLP, 1722 Routh Street, Suite 1500, Dallas, Texas, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record or attached hereto.

Page 1

A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. JOSEPH PEVSNER (Morning session only)

MR. AUSTIN SMITH

THOMPSON & KNIGHT, LLP

1722 Routh Street

Suite 1500

Dallas, Texas 75201

(214) 969-1700

(214) 969-1751 (fax)

joseph.pevsner@tklaw.com

austin.smith@tklaw.com

FOR THE DEFENDANT:

MR. MICHAEL P. ROYAL

MR. MARK A. FLORES (Afternoon session only)

LITTLER MENDELSON, P.C.

2001 Ross Avenue

Suite 2600

Dallas, Texas 75201

(214) 880-8100

(214) 880-0181 (fax)

mroyal@littler.com

markflores@littler.com

1 was another email that was sent close in time in the  
2 same form. And this one was to a Maria Barrera. Is  
3 that correct?

4 A. Correct.

5 Q. And would I be correct in assuming that  
6 she was your contact at Weslaco?

7 A. Yes.

8 Q. Where did you obtain the email addresses  
9 for these individuals that you utilized in  
10 Exhibit 28 and 29?

11 A. Michael on, I believe, April 9th or in  
12 that week created another spreadsheet for me.

13 Q. He created another spreadsheet?

14 A. Yes.

15 Q. And why did he have to create another  
16 spreadsheet?

17 A. That's what I asked him. But he did. And  
18 the emails that we sent out, he helped me send out  
19 these emails. He was there at my house until like  
20 10:00 that night.

21 Q. Did you send an email out to every client  
22 that you had worked with at Avenu --

23 A. No.

24 Q. -- of a similar sort?

25 A. No.

1 Q. So this -- the one that you closed in the  
2 trunk was your personal phone while you worked at  
3 Avenu?

4 A. Correct.

5 Q. And did you -- did you conduct any sort of  
6 business communications on that phone while working  
7 at Avenu?

8 A. Never.

9 Q. What about with regard to working at STA?  
10 I'm assuming you had the phone during that period of  
11 time?

12 A. Yes.

13 Q. And did you conduct any sort of  
14 communications of a business nature on that  
15 particular phone, the one that got closed in the  
16 trunk, while at STA?

17 A. Other than maybe talking to Richard on the  
18 phone, I don't remember.

19 Q. Do you recall ever texting Richard?

20 A. No.

21 Q. Did he ever text you?

22 A. I don't remember.

23 Q. All right. Then there's a reference to a  
24 Dell desktop computer. Is that the personal  
25 computer we've been talking about?

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).

# EXHIBIT A-3



MICHAEL V. CORDARO - 11/20/2019

1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

TED KAMEL )  
)  
vs. ) CA NO. 6:18-CV-00422-JDK-KNM  
)  
AVENU INSIGHTS & )  
ANALYTICS, LLC. )

ORAL AND VIDEOTAPED DEPOSITION  
MICHAEL V. CORDARO  
NOVEMBER 20, 2019

ORAL DEPOSITION OF MICHAEL V. CORDARO, produced  
as a witness at the instance of the Defendant, and duly  
sworn, was taken in the above-styled and numbered  
cause on the 20th day of November, 2019, from  
1:56 p.m. to 4:01 p.m., before Tammy L. Goolsby,  
Certified Shorthand Reporter in and for the State of  
Texas, reported by computerized stenotype machine at  
the Holiday Inn Tyler, 5701 S. Broadway, Tyler,  
Texas, pursuant to the Federal Rules of Civil  
Procedure and the provisions stated on the record or  
attached hereto. Signature not reserved.

MICHAEL V. CORDARO - 11/20/2019

2

APPEARANCES

FOR PLAINTIFF:

MR. AUSTIN SMITH  
THOMPSON & KNIGHT  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201  
austin.smith@tklaw.com

FOR DEFENDANT:

MR. MICHAEL ROYAL  
MR. MARK A. FLORES  
LITTLER MENDELSON  
2001 Ross Avenue, Suite 1500  
Dallas, Texas 75201  
markflores@littler.com

ALSO PRESENT:

Keith Mize, Videographer

REPORTER'S NOTE

Uh-huh = Yes - Affirmative Response

Huh-uh = No - Negative Response

Quotation Marks are used for clarity and do not  
necessarily indicate a direct quote

MICHAEL V. CORDARO - 11/20/2019

28

1 Q. Do you have a copy of any sort of list with  
2 you at this time?

3 A. No.

4 Q. And -- and so, again, what about -- I'm  
5 assuming that Mr. Smith said something about a second  
6 list. is that correct?

7 A. That there were two lists, yeah.

8 Q. And did he tell you anything specifically  
9 about the second list?

10 A. Not that I remember.

11 Q. And -- and do you recall anything you would  
12 have said about the second list?

13 A. It's that I don't remember -- I don't know  
14 about a second list.

15 Q. Did you tell him you don't recall having  
16 ever created a second list?

17 A. Correct.

18 Q. And then you said, also, that you talked  
19 to -- to Mr. Kamel about this situation; is that  
20 correct?

21 A. Yeah.

22 Q. What -- tell me, when have you talked to  
23 Mr. Kamel about the -- the list?

24 A. Over the weekend, I had some questions for  
25 him. I was wondering what this was going to be about,

MICHAEL V. CORDARO - 11/20/2019

29

1 how long it might take.

2 Q. And did you meet with him in person, or was  
3 this over the telephone?

4 A. In person.

5 Q. And -- and how long did you meet with him?

6 A. About an hour.

7 Q. During that time period, did Mr. Kamel show  
8 you any documents?

9 A. He -- he showed me -- he showed me one --  
10 he showed me the list that I, apparently, created for  
11 his web seminar; I think that was the list. Because  
12 I wanted to -- I wanted to see -- I went over there  
13 because I wanted to see if I could jog my memory of  
14 what happened, because this is all very difficult  
15 for me to remember.

16 Q. Sure.

17 And so -- so he showed you a list.

18 A. Yeah.

19 Q. What -- describe that list for me. What did  
20 it contain?

21 A. Name, number, email.

22 Q. Did it have a listing of the -- the cities'  
23 name?

24 A. I don't remember.

25 Q. Okay.

MICHAEL V. CORDARO - 11/20/2019

75

1 A. No.

2 Q. So the sole information that you would have  
3 input into Exhibit 25 was simply whatever you could get  
4 off the computers?

5 MR. SMITH: Object, form.

6 A. Yes.

7 Q. (By Mr. Royal) And, again, how did you choose  
8 the particular cities that were included on Exhibit 25?

9 MR. SMITH: Object to form.

10 A. I used Salesforce. He had a list of the -- of  
11 his cities.

12 Q. (By Mr. Royal) And so were you able to cut and  
13 paste that into this Excel spreadsheet?

14 MR. SMITH: Object to form.

15 A. No. I had to do it by hand. You couldn't,  
16 you know, transfer information, you know, with a mouse  
17 from one computer to the other. I had to do it by hand  
18 or....

19 Q. (By Mr. Royal) And just type it in?

20 A. Yeah. Just look at it and type it.

21 Q. When -- when you said you were doing your  
22 Google searches, did Mr. Kamel tell you what it is you  
23 were searching for?

24 A. He -- he wanted a city manager or a --  
25 somebody in the financial department.

MICHAEL V. CORDARO - 11/20/2019

76

1 Q. And so when you -- you performed the searches,  
2 what would you go and -- and look for? Like, describe to  
3 me how you would -- would go about doing a search.

4 A. I would search for the city's website.

5 Q. And then once you're on the city's website,  
6 what would you look for?

7 A. Contact information for, you know, city  
8 manager, financial director, maybe, or some -- somebody  
9 to contact.

10 Q. But as we're sitting here today, you don't  
11 specifically recall the exact cities for whom you'd had  
12 to do a Google search?

13 A. No.

14 Q. Can you recall whether you had to do the  
15 Google search for, say, 25 of the cities on Exhibit 25  
16 or...?

17 MR. SMITH: Object to form.

18 A. No.

19 Q. (By Mr. Royal) Or put -- put any sort of, you  
20 know, objective criteria to -- you know, I had to --  
21 for 10 percent of the cities on Exhibit 25, I had to do  
22 a Google search?

23 A. No. Have no idea.

24 MR. SMITH: Object to form.

25 Q. (By Mr. Royal) There's just -- you don't have

MICHAEL V. CORDARO - 11/20/2019

95

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION  
TED KAMEL )  
)  
vs. ) CA NO. 6:18-CV-00422-JDK-KNM  
)  
AVENU INSIGHTS & )  
ANALYTICS, LLC. )

REPORTER'S CERTIFICATE  
ORAL AND VIDEOTAPED DEPOSITION OF MICHAEL V. CORDARO  
NOVEMBER 20, 2019

I, Tammy L. Goolsby, Certified Shorthand  
Reporter in and for the State of Texas, hereby  
certify to the following:  
That the witness, MICHAEL V. CORDARO, was duly  
sworn by the officer and that the transcript of the  
oral deposition is a true record of the testimony  
given by the witness;  
That the original deposition was delivered to  
Mr. Michael Royal, Custodial Attorney.  
That pursuant to information given to the  
deposition officer at the time said testimony was

MICHAEL V. CORDARO - 11/20/2019

96

1 taken, the following includes all parties of record  
2 and the amount of time used by each party at the time  
3 of the deposition:

4 Mr. Royal (1hour, 45minutes), Attorney for  
5 Defendant

6 Mr. Smith (0hour, 11minutes), Attorney for  
7 Plaintiff

8  
9 That pursuant to FRCP Rule 30(3), the signature  
10 of the deponent was not requested by the deponent or  
11 a party before the completion of the deposition.

12 I further certify that I am neither counsel for,  
13 related to, nor employed by any of the parties or  
14 attorneys in the action in which this proceeding was  
15 taken, and further that I am not financially or  
16 otherwise interested in the outcome of the action.

17 Certified to by me on this 12th day of  
18 December, 2019.



22 

Tammy L. Goolsby, CSR 3101

23 Expiration: 7/31/21

24 Firm Registration: 684  
25



# **EXHIBIT A-4**

Message

**From:** Live Nation Concerts [Customer\_Support@LiveNation.com]  
**Sent:** 10/2/2017 11:59:53 PM  
**To:** Ted Kamel [Ted.Kamel@MuniServices.com]  
**Subject:** You sent tickets to Ted for The Moody Blues



## Ticket Transfer Initiated

Hi Ted,  
We just sent your tickets to Ted Kamel at tedkamel@msn.com. Now all Ted has to do is accept them to get in.

### Event Summary



#### The Moody Blues

Mon, Jan 22, 2018 08:00 PM

[The Pavilion at Toyota Music Factory](#)  
[300 W Las Colinas Blvd](#)  
[Irving, TX 75039](#)

Tell your friends you're going.



**Section 103, Row L, Seat 14**

**Section 103, Row L, Seat 15**

If you did *not* make this change, please call **800-653-8000** or **email us** immediately.

Live Nation Fan Support

PS – Make sure your password is as strong as your love for live events. Go to **My Account**, enter your email, and click Forgot Password? Then create a bulletproof password including at least one number plus upper and lowercase letters (hint: don't use your birthday, bank PIN, or other easily identifiable stuff).



## Questions?

[Contact us](#) or find your answer fast in our [FAQ](#).

Or write to us: Live Nation, Attn: Fan Support | 1000 Corporate Landing | Charleston, WV 25311

## Follow Us.



[LiveNation.com](#) | [Terms of Use](#) | [Privacy](#) | Live Nation Entertainment  
© 2016 Live Nation. All rights reserved.